

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Sonia P. Spencer) File No.: EB-FIELDNER-22-00034657
Joppa, Maryland)

CITATION AND ORDER

Surveillance Device Causing Harmful Interference to Satellite Radio Services

Adopted: September 19, 2023

Released: September 19, 2023

By the Regional Director, Region One:

I. NOTICE OF CITATION

1. This CITATION AND ORDER (Citation), notifies Sonia P. Spencer (Spencer) that she operated a radio frequency device at her residence (Spencer Residence) that caused harmful interference to a Commission licensee. We therefore direct Spencer to immediately cease and desist from using the device and to comply with Federal Communications Commission (Commission or FCC) interference regulations. If Spencer fails to comply with these laws, she may be liable for significant fines up to \$23,727 per day.

2. Notice of Duty to Comply with the Law: We issue this Citation pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (Act), which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.1 Accordingly, Spencer is hereby on notice that she must comply with sections 301, 302 and 333 of the Act2 and sections 15.5(b) and 15.5(c) of the Commission’s rules.3 If Spencer subsequently engages in any conduct described in this Citation — including specifically any violation of sections 301, 302, and 333 of the Act or sections 15.5(b) or 15.5(c) of the Commission’s rules — she may be subject to civil penalties, including but not limited to, substantial monetary forfeitures. In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the Citation.4 Spencer should take immediate steps to come into compliance with the Commission’s rules, including eliminating the interference.

3. Notice of Duty to Provide Information: Pursuant to sections 4(i), 4(j), and 403 of the Act,5 we direct Spencer to respond in writing, within thirty (30) calendar days after the release date of this Citation, to the questions and requests for documents set out in Section IV of this Citation.

1 See 47 U.S.C § 503(b)(5).

2 47 U.S.C. §§ 301, 302a, 333.

3 47 CFR § 15.5(b)-(c).

4 See S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability for forfeiture “would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.”) (emphasis added).

5 47 U.S.C. §§ 154(i), 154(j), 403.

II. BACKGROUND

4. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to satellite radio providers, such as Sirius XM Radio Inc. (Sirius XM), is particularly problematic as it can hinder subscribers from receiving crucial public safety information and emergency alerts and undermines the Commission's ability to manage the nation's radio spectrum. On November 11, 2022, a consumer filed a complaint with the Commission concerning interference emanating from a location near Joppa, Maryland that prevented the reception of satellite radio signals.

5. On December 20, 2022, agents from the Enforcement Bureau's Columbia Field Office (Columbia Office) went to Joppa, Maryland in response to the consumer's interference complaint. Using direction-finding techniques, the agents confirmed that the source of the interference was a device located in Joppa, Maryland at the Spencer Residence. Agents traced the source of the interference to a surveillance camera located above the Spencer Residence's garage door. The camera did not bear an FCC Identifier nor any other labeling required by the Commission's rules.⁶ An agent issued an on-scene Notice of Interference to Authorized Radio Stations (Notice) to Spencer informing her that she was operating a radio frequency device causing harmful interference to radio communications in the 2.3 GHz band.⁷ Moreover, the Notice provided citations to applicable Commission rules and regulations with which Spencer was advised that she must comply.⁸ The agents left the Notice on the door of the Spencer Residence.

6. On January 25, 2023, agents from the Columbia Office returned to Joppa, Maryland to conduct on-scene investigations. Using direction-finding techniques, the agents confirmed that unauthorized radio emissions were still emanating from the surveillance camera at the Spencer Residence and causing harmful interference to licensed operations.

7. On February 10, 2023, the Enforcement Bureau issued a Notice of Harmful Interference (NOHI) to Spencer.⁹ The NOHI informed Spencer that radio emissions emanating from a 2.4 GHz camera at her residence were causing harmful interference to Sirius XM radio services and requested that she take steps to identify the source and eliminate the interference.¹⁰ The NOHI also stated that operation of the transmitting device on frequencies that cause harmful interference must cease immediately and must not resume.¹¹

8. On April 25, 2023, agents from the Columbia Office returned to Joppa, Maryland to conduct on-scene investigations in response to continuing complaints from consumers that the interference to Sirius XM had not been resolved. Using direction-finding techniques, the agents confirmed that the surveillance camera located at the Spencer Residence was still the source of the interference.

III. APPLICABLE LAW AND VIOLATIONS

9. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to satellite radio providers like Sirius XM is particularly problematic in that it can hinder subscribers from receiving crucial public safety information and emergency alerts and

⁶ See 47 CFR § 2.925(a).

⁷ See *Sonia P. Spencer*, Notice of Interference to Authorized Radio Stations (Dec. 20, 2022) (on file in EB-FIELDNER-22-00034657). The 2.3 GHz Wireless Communications Service (WCS) band spans 2305-2320 MHz and 2345-2360 MHz and consists of 2 paired five-megahertz blocks (A and B) and 2 unpaired five-megahertz blocks (C and D). The two segments of the 2.3 GHz WCS band straddle the Satellite Digital Audio Radio Service which is located at 2320-2345 MHz.

⁸ See *id.*

⁹ *Sonia P. Spencer*, Notification of Harmful Interference to Licensed Communications, (Feb. 10, 2023) (on file in EB-FIELDNER-22-00034657).

¹⁰ *Id.*

¹¹ *Id.*

undermines the Commission’s ability to manage the nation’s radio spectrum. Section 333 of the Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States Government.”¹² Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio”¹³ within the United States or its territories without a license or authorization granted by the Commission. Part 15 of the Commission’s rules provides an exception to this general license requirement and sets forth conditions under which devices may operate without an individual license.¹⁴ Section 15.5(b) of the Commission’s rules requires that “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused”¹⁵ Similarly, section 15.5(c) of the Commission’s rules states that the “operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected.”¹⁶ Section 15.3(m)’s definition of harmful interference includes “[a]ny emission, radiation or induction that . . . obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.”¹⁷ Section 302(b) if the Act states that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, *or use devices*, which fail to comply with regulations promulgated pursuant to this section.¹⁸ Section 2.925(a) of the Commission’s rules states, in relevant part, that “[e]ach equipment covered in an application for equipment authorization shall bear a label listing the following: (1) FCC Identifier consisting of the two elements in the exact order specified in § 2.926. The FCC Identifier shall be preceded by the term FCC ID in capital letters on a single line, and shall be of a type size large enough to be legible without the aid of magnification.”¹⁹

10. We find that Spencer violated sections 301, 302 and 333 of the Act²⁰ and sections 15.5(b) and 15.5(c) of the Commission’s rules by operating a device causing harmful interference to Sirius XM radio services, by operating a device which failed to comply with the Commission’s device labeling rules, and by failing to cease operating the device upon notification by a Commission representative that the device was causing harmful interference.²¹

IV. REQUEST FOR INFORMATION

11. Pursuant to sections 4(i), 4(j), and 403 of the Act, we direct Spencer to confirm in writing, within thirty (30) days of the release of this Citation, that she has taken the corrective measures to eliminate the harmful interference, as well as provide a timeline for any pending corrective actions. Failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Spencer to additional sanctions.

V. OPPORTUNITY TO RESPOND TO THIS CITATION

12. Spencer must respond to this Citation within 30 calendar days from the release date of this Citation. Spencer may respond by any of the following methods: (1) a written statement, (2) a

¹² 47 U.S.C. § 333.

¹³ *Id.* § 301.

¹⁴ 47 CFR § 15.1 *et seq.*

¹⁵ *Id.* § 15.5(b).

¹⁶ *Id.* § 15.5(c).

¹⁷ *Id.* § 15.3(m); *see also id.* § 2.1(c).

¹⁸ 47 U.S.C. § 302a(b) (emphasis added).

¹⁹ 47 CFR § 2.925(a).

²⁰ 47 U.S.C. §§ 301, 302a, 333.

²¹ 47 CFR § 15.5(b)-(c).

teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Spencer's residence. The Commission Field Office nearest to Spencer's residence is located in Columbia, Maryland.

13. If Spencer requests a teleconference or personal interview, please contact David C. Dombrowski, by telephone at: (301) 725-1996. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Spencer prefers to submit a written response with supporting documentation, she must send the response within 30 calendar days of the release date of this Citation to the contact and address provided in paragraph 14 below.

14. All written communications should be sent to the mailing and e-mail address below and reference File Number EB-FIELDNER-22-00034657.

Federal Communications Commission
EB Columbia Regional Office
Attn: David C. Dombrowski
9050 Junction Drive
Annapolis Junction, Maryland 20701
FIELD@FCC.GOV
Re: EB-FIELDNER-22-00034657

15. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Spencer should provide a description of the accommodation required, and include as much detail as possible, and also provide a telephone number and other contact information. Spencer should allow at least five business days advance notice; last minute requests will be accepted but may be impossible to fill. Spencer should send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
(202) 418-0530 (voice), (202) 418-0432 (tty); and

For accessible format materials (braille, large print, electronic files, and audio format):
(202) 418-0531 (voice), (202) 418-7365 (tty).

16. We advise Spencer that it is a violation of section 1.17 of the Commission's rules²² for any person to make any false or misleading written or oral statement of fact to the Commission. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.

17. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment.²³

18. Violations of section 1.17 of the Commission's rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to section 503 of the Act.

²² *Id.* § 1.17.

²³ 18 U.S.C. § 1001.

19. Finally, we warn Spencer that, under the Privacy Act of 1974,²⁴ Commission staff will use all relevant material information before it, including information disclosed in interviews or written statements, to determine what, if any, enforcement action is required to ensure Spencer's compliance with the Act and the Commission's rules.²⁵

VI. FUTURE VIOLATIONS

20. If, after receipt of this Citation, Spencer again violates sections 301, 302 or 333 of the Act, and/or sections 15.5(b) or 15.5(c) of the Commission's rules by engaging in conduct of the type described herein, the Commission may impose sanctions for each such violation. For example, the Commission may impose monetary forfeitures. The Commission may impose forfeitures not to exceed \$23,727 for each such violation or each day of a continuing violation, and up to \$177,951 for any single act or failure to act.²⁶ The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.²⁷ Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.²⁸ In addition, future violations may subject Spencer to seizure of equipment through *in rem* forfeiture actions,²⁹ as well as criminal sanctions, including imprisonment.³⁰

VII. ORDERING CLAUSES

21. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Act, 47 U.S.C. § 154(i), (j), Sonia P. Spencer must cease and desist from causing harmful interference in violation of section 333 of the Act, 47 U.S.C. § 333, operating a device that fails to comply with the Commission's rules in violation of section 302 of the Act, 47 U.S.C. § 302a, and operating without authorization in violation of section 301 of the Act, 47 U.S.C. § 301, and sections 15(b) and 15(c) of the Commission's rules, 47 CFR § 15.5(b)-(c).

22. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act,³¹ Sonia P. Spencer must provide the written information requested in paragraph 11IV above. Sonia P. Spencer must support her responses with an affidavit or declaration under penalty of perjury, signed and dated by Sonia P. Spencer, attesting personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein and that all of the information requested has been produced. All such declarations provided must comply with section 1.16 of the Commission's rules and be substantially in the form set forth therein.³² The Commission must receive the response within thirty (30) calendar days of the release date of this Citation and Order.

²⁴ 5 U.S.C. § 552a(e)(3).

²⁵ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

²⁶ See 47 U.S.C. § 503; 47 CFR § 1.80(b). These amounts are subject to further annual adjustment for inflation.

²⁷ See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10).

²⁸ See *supra* paras. 4-8.

²⁹ See 47 U.S.C. § 510.

³⁰ See *id.* §§ 401, 501.

³¹ 47 U.S.C. §§ 154(i), (j), 403.

³² 47 CFR § 1.16.

23. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by first class mail and certified mail, return receipt requested, to Sonia P. Spencer at her residence in Joppa, Maryland.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
Regional Director, Region One
Enforcement Bureau
Federal Communications Commission